

07.06.2019

Present: Sh. Rakesh Shukla with Sh. Amlesh Yadav, counsel for the plaintiff
Sh. Anupam Sharma, Id. Counsel for the defendant/DDA

Ld. Counsel for the defendant/DDA seeks time to file reply to the application under order 39 Rule 1 & 2 CPC. He has not file reply despite service in this matter in the month of May itself.

Arguments on application under Order XXXIX Rule 1 & 2 read with Section 151 CPC heard in view of urgency involved in this case as the plaintiff has apprehension of demolition of his property.

As per the plaintiff, he is in possession of suit property since long. Relevant documents have been filed on record, which prima facie suggest that since about 25 years or so the plaintiff is in possession of the same.

The case of the plaintiff is that the suit property forms part of Khasra No. 117/118, Mansarover Garden, Ring Road, New Delhi-110015 which was never acquired by the LAC.

On the other hand, counsel for DDA submitted that the suit land falls in Khasra no. 110/2/2 min and 11/2/2 min, Village Naraina, which stands acquired vide award No. 1713 and the land was transferred to DDA through notification no. F8(16) 62-L&H, dated 06.07.1965 issued under Section 22 (1) of D.D. Act and plaintiff is only a trespasser therein. Ld. Counsel for the defendant/DDA has further argued that plaintiff has not filed any document to show his possession over the suit land and the status report dated 18.01.2019 filed by the plaintiff does not show the Khasra Numbers of the land allegedly under occupation of plaintiff.

In response to this, Id. Counsel for the plaintiff has argued that the plaintiff has already moved an application before competent authority i.e. SDM, Delhi Cantt., for identification of their property by mentioning Khasra on the same, by TSM Method. That process is yet to be carried out by the office of SDM.

Also it does not lie in the mouth of DDA to assert that the land of plaintiff falls under the land acquired by DDA as DDA has been unable to file any document in support of its contention that the plaintiff is sitting on Khasra No. 110/2/2 min and 11/2/2 min, Village Naraina allegedly acquired in the year 1965.

Under these circumstances, till the outcome of measurement of the land by TSM Method, I restrain the defendant from forcibly demolishing the suit property/dispossessing the plaintiff from the same. At the same time I also direct the Id. Counsel for the plaintiff to file other relevant documents to show the possession of the plaintiff, which he submits that the plaintiff is in possession of. Application under order 39 Rule 1 & 2 read with Section 151 CPC is decided accordingly.

Defendant is directed to file written statement within stipulated period under law with advance copy to counsel for the plaintiff at least one week from the next date of hearing. Replication within next two weeks with advance copy to Id. Counsel for defendant.

Put up the case on 20.08.2019 for filing of written statement, replication, if any, and further proceedings. Copy of order be given dasti to both the parties, as prayed.

**(Savitri)
ADJ-02, West/Delhi
07.06.2019**